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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|----------------------------------|-------------|----------------------|---------------------|------------------|
| 10/510,605 | 10/08/2004 | David Johnston Lynch | PU020102 | 3925 |
| 7590 03/15/2010 | | | | |
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| EXAMINER | | | | |
| ALAM, MUSHFIKH I | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 2426 | | | | |
| MAIL DATE | | DELIVERY MODE | | |
| 03/15/2010 | | PAPER | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/510,605

Applicant(s)

LYNCH, DAVID JOHNSTON

Examiner

MUSHFIKH ALAM

Art Unit

2426

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-5, 12-14 and 19-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-5, 12-14 and 19-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10/8/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB006)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Paper No(s)/Mail Date _____
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 3-5, 12-14, 19-21 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 3-5, 12-14, are rejected under 35 U.S.C. 103(a) as being unpatentable over Plotnick et al. (US 2003/0227567) in view of Rosenberg et al. (US 2002/0100041), and further in view of Mabon (US 7061549), and further in view of Iggulden (US 6002443), and further in view of Schwesig et al. (US 7177881), and further in view of Ruehl (US 6907137).

Claim 3-5, Plotnick teaches an apparatus for displaying at least two modes (application modes) comprising an interactive application mode (internet access mode) and a television program mode (VOD mode) on a display device (paragraph [0016]), the apparatus comprising:

- a television program signal receiver (16) (fig. 1);
- an interactive application signal receiver (32) (fig. 1);

- means for switching (obtaining focus) between said television program mode and said interactive application mode being active (focused) in said display device (paragraph [0027]);

Plotnick also teaches the feature of "switching said interactive application mode to television mode, upon receipt of said mute signal (hot key) (paragraph [0027])".

Plotnick also teaches the apparatus wherein said interactive application mode is a browser mode (i.e. internet access capable programs) (paragraph [0016]).

Plotnick is silent regarding the apparatus comprising:

- means to receive remote control signals from a remote control device having a mute key for generating a mute signal;
- means to enable a mute-to-interactive application feature; and
- wherein when said mute-to-interactive application feature is enabled and said television program mode is active in said display device, upon receipt of said mute signal, said mode switching means is activated causing said interactive application mode to be active in said display device.
- wherein when said mute-to-interactive application feature is enabled (user indicating he wants to view pause ads).

Regarding the limitations:

- means to switch channels when said television program mode is active in said display device;
- means to store a last viewed item as a go-back channel in a memory source; and
- said remote control device having a go-back channel key for generating a go-back channel signal;
- wherein when said television program mode is active and said last viewed item is said interactive application mode, upon receipt of said go-back channel signal, said mode switching means is activated causing said interactive application mode to be active in said display device;
- wherein when said interactive application mode is active and said last viewed item is a first channel of said television program mode, upon receipt of said go-back channel signal, said mode switching means is activated causing said television program mode to be active and said first channel to be displayed in said display device.
- wherein when in television program mode and said last viewed item is a first channel, upon receipt of said go-back channel signal, said channel switching means is activated causing said first channel to be displayed in said display device.

Plotnick is silent regarding the specific use of a "mute" key being the hot key to enable switching functions.

Plotnick is also silent regarding the feature of "switching between modes upon the receipt of a hot key command, wherein the hot key is a go-back key".

Rosenberg teaches the apparatus comprising:

- means (130) to receive remote control signals from a remote control device having a mute key (i.e. pause key mutes sound) for generating a mute signal (paragraphs [0036], [0039]);
- means (i.e. indicating that he would like to see pause ads) to enable a mute-to-interactive application feature (paragraphs [0039], [0050]); and
- wherein when said mute-to-interactive application feature is enabled (i.e. user enabling pause ads) said television program mode (user watching video programming) is active in said display device, upon receipt of said mute signal (pause), said mode switching means is activated causing said interactive application mode (pause ads) to be active in said display device (paragraph [0050]).
- wherein when said mute-to-interactive application feature is enabled (user indicating he wants to view pause ads).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a switching modes during a mute command as taught by Rosenberg to the application switching system of Plotnick to allow for additional programming during an inactive period (i.e. pause/mute) (paragraph [0050]).

Regarding the above limitations, Plotnick, Rosenberg teach switching between modes upon the receipt of a hot key command. (paragraph [0027] of Plotnick, (paragraphs [0039], [0050] of Rosenberg).

Mabon teaches a go-back key (previous channel of interest key) (col. 7, lines 31-60).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided switching modes (of Plotnick) upon a go-back key (of Mabon) in place of the hot key (of Plotnick) for the added benefit of going back and forth between modes (col. 7, lines 31-60).

Iggulden teaches the specific use of a "mute" key being the hot key to enable switching functions (col. 25, lines 5-22).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided switching modes (of Plotnick) upon a mute key (of Iggulden) for the added benefit of providing another function for use while the program has been triggered by a hot key (i.e. muted) (col. 25, lines 5-22).

Plotnick, Rosenberg, Mabon, Iggulden are silent regarding the apparatus further comprising:

- means to enable a television during download function;
- wherein when said browser mode is active and said television during download function is enabled, upon a download above a threshold time being detected, said mode switching means is activated causing said television program mode to be active until detection of completion of said download.

Schwesig teaches the apparatus further comprising:

- means to enable a television during download function (allowing downloads) (col. 11, lines 46-59);
- wherein when said browser mode (i.e. one task) is active and said television during download function is enabled, said mode switching means (downloading in the background) is activated causing said television program mode (i.e. performing other tasks) to be active until detection of completion of said download (col. 11, lines 46-59).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided background downloading as taught by Schwesig to the system of Plotnick, Rosenberg, Mabon, Iggulden to allow users to perform other tasks while downloading (col. 11, lines 46-59).

Plotnick, Rosenberg, Mabon, Iggulden, Schwesig are silent regarding a download above a threshold time being detected.

Ruehl teaches a download above a threshold time being detected (i.e. switching to a different mode upon a time threshold) (col. 1, lines 49-63).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a time threshold as taught by Ruehl to the system of Plotnick, Rosenberg, Mabon, Iggulden, Schwesig to allow for a time buffer before a further action takes place (col. 1, lines 49-63).

Claims 12-14 are analyzed as an apparatus of claim 3-5.

4. Claims 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Plotnick et al. (US 2003/0227567) in view of Rosenberg et al. (US 2002/0100041), and further in view of Mabon (US 7061549), and further in view of Iggulden (US 6002443), and further in view of Plotnick et al. (US 2002/0144262).

Claim 19, note the discussion of claims 3-5, Plotnick '567, Rosenberg, Mabon, Iggulden are silent regarding an apparatus for displaying at least two modes comprising

an interactive application mode and a television program mode on a display device, the apparatus comprising:

wherein said remote control signals include a television-during-download signal generated by the remote control device; when said display device is in the interactive application mode, a download is initiated, and the download has not been completed.

Plotnick is also silent regarding the specific feature of "switching modes until a download moves toward completion".

Plotnick '262 teaches wherein said remote control signals include a television-during-download signal (i.e. pause is interpreted as download signal, due to recording upon pause, trick-play) generated by the remote control device; when said display device is in the interactive application mode (of Plotnick '567), a download is initiated (pause of Plotnick '262), and the download has not been completed (paragraph [0128]).

Schwesig teaches the specific feature of "switching modes until a download moves toward completion" (col. 11, lines 46-59).

Response to Arguments

5. Applicant's arguments with respect to claims 3-5, 12-14, 19-21 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues that the Mabon and Plotnick references both teach that switching to a last viewed item from a currently viewed item occurs within the same mode. In Plotnick at paragraphs [0027]-[0031], it is clear that the teachings are

expressly directed to shifting focus to any one of the application programs 34, 36, or 38 or to a default application program selected from application programs 34, 36, or 38. Plotnick does not switch focus to a television mode from his application mode or vice versa. Mabon is substantially similar in a functional way to Plotnick in that Mabon allows the user to dwell on a certain channel within a television program mode, which channel is known as a channel of interest, in order to permit the user to jump back, to that channel at a later time. Mabon and Plotnick do not suggest that their focus shifting or jumping back functions can be used to cross between modes. They teach clearly that the focus shifting and jumping back are accomplished within a single mode.

The Examiner respectfully disagrees. Mabon is relied upon for teaching the concept of a go back signal and memory related to previous channels. Plotnick and Rosenberg are relied upon for teaching the switching of channels and applications. In combination, through use of a trigger signal (i.e. mute, go back key, hot key, etc.), a switching function is performed in through Plotnick, Rosenberg and the memory related to a go back key is taught by Mabon. Plotnick discloses the ability to maintain a listing of previously focused applications (para 31). Thus, the combination allows for the combination of the go back channel key associated with channel for use with applications through the use of this maintained listing.

Further, Plotnick discloses default applications which may be interested as a TV mode, or any of the modes broadly claimed. The claimed modes, "application mode, browser mode, TV mode, etc.) are various modes that could be read upon by a default

mode for use in Plotnick. Thus, the switching that occurs is indeed between different modes.

Conclusion

6. Claims 3-5, 12-14, 19-21 are pending.

Inquiries

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MUSHFIKH ALAM whose telephone number is (571)270-1710. The examiner can normally be reached on Mon-Fri: 8:30-18:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hirl Joseph can be reached on (571) 272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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3/11/2010

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Supervisory Patent Examiner, Art Unit 2426
March 12, 2010